IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 83 OF 1993

Shri Jayant Arvind Paranjpe ..Appellant

versus

1) The New India Assurance Co.

2) Hasan Abdul Rehman Attar

3) Chandrakant S. Jadhav ..Respondents

Mrs. Suhasini Mutalik for the Appellant.

None for the Respondent No.1.

Appeal stands dismissed against Respondent Nos. 2 and 3 as per order dated 12.3.1996 and 20.12.1994.

CORAM : D. G. DESHPANDE,J.

DATED : 11TH JANUARY,2005

ORAL ORDER :

1. Heard learned counsel for the Appellant. Nobody is present for the Respondent No.1, though served. Appeal stood dismissed against Respondent Nos. 2 and 3 as per orders dated 12.3.1996 and 20.12.1994.

2. The Appellant met with an accident on 17.9.1984 at about 9.30 a.m. He was going on his moped when

one truck bearing Registration No. MHD 5293 owned by the Respondent No.2 and driven by the Respondent No.3 and insured with the respondent no.1 came in high speed and tried to over took the appellant from wrong side which resulted in truck dashing the moped of the appellant. The appellant was dashed from behind. The appellant's left leg came under the front right wheel of the truck resulting into compound fracture and repture of the leg.

3. The appellant has claimed from the Tribunal Rs.1,06,339.21 paise. The Tribunal considered and accepted all the claims with slightest variation but a major claim of the applicant of Rs.60,000/= for the pain and suffering and for the loss of efficiency was reduced by the Tribunal to Rs.25,000/= because Tribunal found that the claim was a bit exorbitant. It is this finding that is mainly challenged in the present appeal.

4. My attention was drawn by the Counsel for the appellant to paragraph 9 wherein the Tribunal has described the nature of the injuries and period of hospitalisation. Initially the appellant was admitted in the Sancheti Hospital, Pune, from 17.9.1984 till 13.11.1984. Then again between 26.12.1984 till 2.1.1985. Thereafter he was readmitted from 26.4.1985 for removing infected bone

pieces from the leg. Three operations were performed during this long period of hospitalisation. He was on leave for one year and four and half months and was without pay from 27.12.1984 to 2.2.1986. It appears from the aforesaid circumstances the period of hospitalisation and nature of injuries which the appellant suffered, left leg was completely damaged as a result of which the appellant was required to have assistance of servant for attending to his day to day activities.

5. If such is the nature of the accident and the consequence then the Tribunal was not justified in reducing the amount of compensation claimed at Rs.60,000/= to Rs.25,000/=. No reasons have been given by the Tribunal for reducing the amount and in the circumstances I find that Rs.50,000/= would have been proper compensation on this count. Therefore, this appeal is partly allowed. Judgment of the Tribunal below is modified. Compensation is enhanced by Rs.25,000/= (Rupees Twenty Five Thousand) to whatever has been granted by the Tribunal , together with the costs. Appeal disposed of accordingly.

11.1.2005 (D.G. DESHPANDE,J.)